

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO.: 1:14CR341
)	
Plaintiff,)	JUDGE PATRICIA A. GAUGHAN
)	
v.)	
)	
KALI ALEXANDER, ET AL.,)	<u>GOVERNMENT'S TRIAL BRIEF</u>
)	
Defendants.)	

Now comes the United States of America, by and through its counsel, Steven M. Dettelbach, United States Attorney, and Kelly L. Galvin and Paul M. Flannery, Assistant United States Attorneys, and pursuant to the Court's Trial Order dated January 20, 2015 hereby submits this trial brief.

I. TRIAL ESTIMATE AND NUMBER OF WITNESSES

It is the government's belief that the trial of this matter will last approximately six (6) days, and that barring any presently unforeseen circumstances, it should be concluded by Tuesday, June 2, 2015. The government anticipates it will call approximately 10 to 12 witnesses.

II. JURY INSTRUCTIONS

The government drafted a set of proposed jury instructions to be submitted jointly by the parties to the Court. On April 23, 2015, the government provided the proposed instructions to defense counsel for review and comment. Certain defense counsel have responded to government counsel. Those defense counsel who have responded to the government's proposed jury instructions have had relatively few objections. Certain defense counsel have also indicated that they intend to file a limited number of specific proposed jury instructions that may be in dispute.

The government will continue to work with defense counsel to develop a final set of joint proposed jury instructions, identifying those instructions that are agreed upon, and those that remain in dispute. Pursuant to the Court's pretrial order, the government is hereby filing together with its Trial Brief the set of joint jury instructions provided to defense counsel. (See Exhibit 1.) The government has provided legal authority supporting each of its proposed instructions at the bottom of each of its proposed instructions. The government will provide the Court with a copy of the final joint jury instructions on a CD-ROM, as directed in the Court's Trial Order.

III. VOIR DIRE

The government has prepared a list of proposed *voir dire* questions that it requests be used by the Court, in addition to the Court's standard jury questionnaire, while it conducts *voir dire* in this case. The government is filing here a complete set of its proposed questions. (See Exhibit 2.)

IV. STIPULATIONS

The government has provided proposed stipulations to defendants Alexander, Nichols, Maxwell, and Chappell regarding the fact of their prior convictions. It is the government's

understanding that these defendants will be stipulating to the fact of their prior convictions. In order to avoid undue burden on potential witnesses, the government will request that these defendants and defense counsel sign the proposed stipulations no later than the final pretrial conference to be held on Wednesday, May 20, 2015.

The government has also proposed a stipulation to defendant Alexander that the substance he sold to the undercover team on August 25, 2014 was, in fact, heroin. To date, defendant Alexander has not agreed to the government's proposed stipulation.

In the event the government cannot obtain stipulations from these defendants regarding these issues, the government will be prepared to establish these facts through other evidence and testimony.

V. OTHER EVIDENTIARY OR LEGAL ISSUES

The facts to be established at trial and other anticipated evidentiary and legal issues have been extensively briefed by the parties in pretrial filings. At this time, the government does not anticipate any evidentiary or legal issues requiring additional briefing. It is the government's understanding that whether or not an entrapment defense will be requested by defense counsel is still not resolved. Pursuant to the Court's order after additional briefing, the Court will reserve ruling on this issue until the presentation of the government's case.

The government intends to play recordings which utilize transcripts during its case in chief. Those recordings were provided well in advance during discovery. The government has also provided the transcripts. The government has redacted information which it agreed to do to resolve any Bruton issues. The government has also redacted portions which relate to a particular defendant's past convictions or criminal conduct, in compliance with the previous orders of this Court. To date, no defense counsel has informed the government of any objections to the recordings or the transcripts. To avoid delays during the trial, the government

will request that if any remaining objections to the recorded evidence remain, defense counsel voice those objections during the final pretrial on May 20, 2015, so that sufficient time is allowed to address the objections prior to trial, and/or make further redactions if necessary. Otherwise, the government will assume that the recordings may be played.

VI. CONCLUSION

To the extent the defendants raise issues not anticipated or addressed herein, the government requests an opportunity to supplement this Trial Brief to permit the Court to address those matters in advance of trial.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of May 2015 a copy of the foregoing document was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's system.

/s/ Kelly L. Galvin

Kelly L. Galvin

Assistant U.S. Attorney